

Application No. 08/962,362

REMARKS

Claims 3-6, 20-30 and 32-34 are pending. Claims 1, 2 and 29 are canceled without prejudice to advance prosecution of the present application. These claims will be filed in a continuation application. Claims 3-6, 20-27, 30 and 34 have been amended to correct their claim dependency in view of the cancellation of claim 1. Claim 3 was also amended to correct the antecedent reference. Claim 4 was also amended for consistency with claim 32 with respect to the particle size range. Claim 5 is also amended to more particularly point out Applicants' claimed invention. The amendment of claim 5 is supported by the specification, for example, at page , lines . No new matter is introduced by the amendments.

With respect to the comment of the Notice of Non-Compliant Amendment, the Amendment of January 24, 2006 inadvertently noted that claim 28 was canceled instead of claim 29. This is corrected in the above discussion.

Claims 1-6, 20-30 and 34 stand rejected, and claims 32 and 33 were indicated allowed. Since all of the currently pending dependent claims depend from allowed claim 32, all of the pending claims should be presently allowable. In view of the cancellation of claim 1, all of the pending rejections are presently moot. These are specifically discussed in the following.

Rejection Over Jaskie in view of Bhargava

The Examiner rejected claims 1-6, 20-30 and 34 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 5,442,254 to Jaskie in view of U.S. Patent 5,455,489 to Bhargava. Claims 1, 2 and 27 have been canceled to advance prosecution. Claims 3-6, 20-27, 29, 30 and 34 have been amended to depend from claim 32. Thus, this rejection is presently moot. Since this rejection is moot, Applicants respectfully request withdrawal of the rejection of claims 1-6, 20-30 and 34 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 5,442,254 to Jaskie in view of U.S. Patent 5,455,489 to Bhargava.

Application No. 08/962,362

Comments On Examiner's Response

On page 5 of the Office Action, the Examiner asserted where "instead of 'average diameter less than 100 nm' amended claim recites 'average diameter less than 95 nm' which does not effect the rejection of claims presented to the board of Patent Appeals and Interferences and further doesn't address the issue of arguments." With all due respect, this statement misses significant issues. Specifically, claim 1 prior to being canceled above specified metal oxide particles. This is a significant amendment relative to the claims previously on appeal, and this amendment directly addressed issues raised by the Board. Therefore, Applicants respectfully disagree, and claim 1 (now canceled) clearly addressed and overcame issues raised previously by the Board of Patent Appeals and Interferences. Nevertheless, to advance prosecution of the present application, claim 1 has been canceled for prosecution in a continuation application.

CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Peter S. Dardi, Ph.D.
Registration No. 39,650

Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.

Application No. 08/962,362

4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (404) 949-5730